

STATE OF SOUTH CAROLINA

(Caption of Case)

Amended Project Development Application of Duke
Energy Carolinas, LLC for Approval of Decision to
Incur Nuclear Generation Pre-Construction Costs

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET
NUMBER: 2011 - 20 - E

(Please type or print)

Submitted by: Tom Clements

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DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☐ Request for item to be placed on Commission's Agenda
expeditiously

☐ Other:

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input checked="" type="checkbox"/> Request
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input checked="" type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit	
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report	

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**STATE OF SOUTH CAROLINA
BEFORE THE PUBLIC SERVICE COMMISSION**

DOCKET NO. 2011-20-E

IN THE MATTER OF:)	RESPONSE of TOM CLEMENTS
Amended Project Development Application of)	TO DUKE OBJECTION,
Duke Energy Carolinas, LLC for Approval)	REQUEST FOR RULING,
of Decision to Incur Nuclear Generation)	HEARING
Pre-Construction Costs)	

This filing is in response to an objection by Duke Energy Carolinas to my Petition to Intervene in the docket concerning Duke's request to incur an additional \$229 million in "pre-construction" costs at the proposed Lee reactor site in Lee County, South Carolina, even though no decision has been made to go forward with the project and no required licenses are secured to move forward.

My petition has laid out valid and legally defensible reason as to why I should be allowed to intervene in the matter now before the Commission. That document on its own established my right to intervene and that I have standing in this matter.

Duke makes a claim that I do not have a "personal stake" or a "direct interest" in the Lee reactor project nor the outcome of the case before the Commission. I have demonstrated in my petition that I do have a personal stake and direct interest in the project and claims to the contrary by Duke are incorrect.

Duke's assertion that the personal reasons I presented to the Commission – that I live downwind from the proposed reactors, that I consume water from the Broad River, and that I engage in recreational activities near the proposed site – are assertions that "relate to general interests common to all members of the public in South Carolina" is factually incorrect. This assertion reflects a total ignorance of the geography of the state of South Carolina and lack of knowledge of the water consumption from the Broad River. The Duke objection presents an assertion that all residents of South Carolina recreate near the proposed Lee site, which is also not substantiated by any factual presentation. These "personal reasons" thud set me apart from the general populace.

My direct interest in the Lee project is, in part, due to threat of personal injury or harm presented to me via release of radionuclides by the Lee plant to the air or water which I consume or come in contact with, due to both normal operation or in case of accident. I have a particular interest which sets me off from the population of the state of South Carolina which Duke erroneously and indefensibly claims equally share the threat from the plant.

As I daily consume water from the Broad River and in warm weather recreate in the river itself, I am concerned about the radionuclide burden in the river on a daily basis and in the event of

accident. The 2009 *Radiological Environmental Operating Report* of April 2010, filed by South Carolina Electric and Gas (SCE&G) with the U.S. Nuclear Regulatory Commission states that tritium is present in drinking water withdrawn at the Columbia Water Works, which is only about two miles from my residence. Page 5 of that report states:

“Gamma spectroscopy measurements of drinking water samples collected from the Jenkinsville water supply and Site 17 (Columbia Water Works 25.0 mi. SE) did not indicate the presence of activated corrosion or fission product activity above the respective MDAs. Tritium analysis indicated the presence of tritium above MDA in two indicator samples collected from Site 17 (Columbia Water Works 25.0 mi. SE). The tritium concentrations at Site 17 were 6.45E+2, and 6.82E+2 pCi/l. All concentrations were well below the reporting limit. The highest indicator and control site-specific gross beta activity was measured at Site 39 (Lake Murray Water Treatment Plant 14.0 mi. SSE) at a level of 3.07E+0 pCi/l. 97.2% of indicator/control drinking water samples were collected.”

The only source of this tritium is routine releases from the V.C. Summer nuclear power plant during normal operation, with concentrations likely higher during drought conditions. Given this confirmation by SCE&G that its single reactor adds a measurable tritium amount to the river water withdrawn for consumption raises concern as to what two additional reactors would add to the river in the way of radioactive contamination, whether during normal operation or during an accident. Duke has failed to make any case whatsoever in its objection to my petition that there will not be an additional radionuclide burden to the river which could adversely impact me via my water consumption or recreational activities. In fact, as tritium and other radioactive discharges are routine from nuclear power plants, as reflected in annual radiological reports, it must be assumed that radioactive isotopes will be discharged into the Broad River. Duke has not argued that this will not be the case.

Likewise, Duke has presented no information whatsoever negating the fact that my residence is downwind of the Lee site on occasion and that I could thus be injured or adversely affected in a unique way by any aerial release of radiation. As we have learned in radioactive contamination patterns associated with the Japanese nuclear accident, contamination can vary from spot to spot downwind.

As we have seen in the nuclear reactor disaster in Japan, the U.S. Nuclear Regulatory Commission, the U.S. Department of Energy and the U.S. Department of Defense have affirmed measurable amounts of radiation from the Fukushima reactors at great distance from the reactors. U.S. authorities, based on dose models, have recommended evacuation 50 miles from the reactors for U.S. citizens, beyond the evacuation zone established by Japanese authorities, and are closely monitoring the situation to expand the evacuation zone as need be.

Detection of iodine-131 in drinking water supplies in Tokyo show that radiological impacts from a reactor accident can have potential health impacts far beyond a 50-mile zone and could quickly appear in drinking water after a serious accident. In Tokyo, about 140 miles from the scene of the accident, the U.S. Embassy has acknowledged the threat and has been handing out potassium-iodine tablets to U.S. citizens. Being close to the Lee site, I am also concerned about potential impact to me of an iodine-131 release during an “abnormal” event at the plant.

Given my professional status working on nuclear issues in the state of South Carolina, I can also affirm that in the event of an accident at any reactors constructed at the Lee site, I would plan to help inform the public of any dangers of such accident and would even place myself at some increased risk in order to do monitoring with the two Geiger counters which I own and use on a regular basis when I am visiting or am near nuclear sites, including the Lee site. Duke has given no presentation whatsoever in its objection that a serious radiological accident of concern to my own personal health, as an impacted citizen or professional, is not possible at the reactor site. If a claim were to be presented by Duke that there is zero risk of a severe accident, I am interested to know about that.

As to my enjoyment and recreation in the Broad River and in its environs near to or downstream from the proposed plant site, and recreating in or near it, the South Carolina Supreme Court has confirmed that such environmental standing is established by even a "temporary" intrusion on one's aesthetic interests in enjoying an unspoiled and undisturbed natural environment. Such injury to one's "use and enjoyment" of natural resources from a proposed activity represents a "direct stake in the permitting decision, and therefore . . . sufficiently alleges standing." *Smiley v. S.C. Dept. Of Health*, 374 S.C. 326 at 333, 649 S.E.2d 31 (2007).

In *FRIENDS OF THE EARTH v. GASTON COPPER REC.*, 204 F.3d 149 (4th Cir. 2000), the United States Court of Appeals, Fourth Circuit states in a ruling in the year 2000 that "The Supreme Court has consistently recognized that threatened rather than actual injury can satisfy Article III standing requirements. See, e.g., *Valley Forge*, 454 U.S. at 472; *Gladstone Realtors v. Village of Bellwood*, 441 U.S. 91, 99 (1979)."

The court in the Gaston Copper case went on to reverse a lower court ruling and determined that standing was granted to parties impacted downstream from a copper facility located on the Edisto River in South Carolina.

The fact that Duke is seeking additional pre-construction costs affirms that the project has a degree of reality, even if never built or abandoned, and I must assume that the AP1000 plants, which have never been built before, may well be constructed and operate and thus will pose a real and calculable threat under regulation by the Nuclear Regulatory Commission and also impose on my enjoyment of natural resources. If Duke were to admit that the plants were not to be built and that the request to incur a large amount of pre-construction costs is merely an exercise designed to collect more funds from rate payers I would abandon my petition to intervene and affirm that my fears of personal harm, from an environmental and health perspective, are not valid.

I reaffirm my personal stake in Duke's decision to pursue the Lee project when other operations are available and that investing money in a speculative and costly project will thus divert time and resources away from energy efficiency and conservation efforts by the company, which will impact me directly as an energy consumer in the state of South Carolina, which is lacking a sound state-wide energy policy. Further, it is of direct interest to me that electrical power could

be sold out of state to JEA or any other entity, while I am forced to bear the threat of nuclear accident and routine release of radiation into the air and the Broad River.

Duke asserts in its objection that my interests are represented by the Office of Regulatory Staff though I have never made such a claim and which is not accurate. It is, in part, for the very reason that ORS is charged with the conflicting role of protecting the financial interests of the company that I do not feel represented by ORS in this matter, though we may at times have agreement on certain aspects of this or other proceedings. It cannot be supposed that ORS represents my personalized interest and Duke has made no attempt to explain how ORS uniquely represents my personal and direct interest in the Lee reactor project and its impacts. Only I can represent my unique interests in this matter.

As my interest in this docket are personal and direct, I therefore request that the Commission reject the objection by Duke to my petition and that I be allowed to participate in the proceedings.

If the Commission chooses not to reject Duke's objection, I request a hearing on this matter. If a decision is made to hold such a hearing, I request a period of two weeks from the time such a decision is rendered to prepare for the hearing. Given the tight timeline established by the Commission in this docket I realize that the schedule for the overall proceedings may well be impacted by any hearing on this matter and proceedings associated with it.

I hereby certify that I have mailed copies of this Petition to Intervene to all parties which have formally intervened in this docket and which are so listed on the docket website.

March 24, 2011

A handwritten signature in black ink that reads "Tom Clements". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

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